

Calendar No. 511

108TH CONGRESS
2D SESSION**S. 1609**

To make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2003

Mr. HATCH (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 13, 2004

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Parental Responsibility
5 Obligations Met through Immigration System Enforce-
6 ment Act” or “PROMISE Act”.

1 **SEC. 2. ALIENS INELIGIBLE TO RECEIVE VISAS AND EX-**
 2 **CLUDED FROM ADMISSION FOR NON-**
 3 **PAYMENT OF CHILD SUPPORT.**

4 Section 212(a)(10) of the Immigration and Nation-
 5 ality Act (8 U.S.C. 1182(a)(10)) is amended by adding
 6 at the end the following:

7 “(F) NONPAYMENT OF CHILD SUPPORT.—

8 “(i) IN GENERAL.—Except as pro-
 9 vided in clause (ii), an alien who is legally
 10 obligated under a judgment, decree, or
 11 order to pay child support and whose fail-
 12 ure to pay such child support has resulted
 13 in an arrearage is inadmissible.

14 “(ii) EXCEPTION.—An alien described
 15 in clause (i) may be admissible when child
 16 support payments under the judgment, de-
 17 cree, or order are satisfied or the alien is
 18 in compliance with an approved payment
 19 agreement.”.

20 **SEC. 3. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON**
 21 **ESTABLISHMENT OF GOOD MORAL CHAR-**
 22 **ACTER.**

23 Section 101(f) of the Immigration and Nationality
 24 Act (8 U.S.C. 1101(f)) is amended—

25 (1) in paragraph (8), by striking the period at
 26 the end and inserting “; or”; and

1 (2) by inserting after paragraph (8) the fol-
 2 lowing:

3 “~~(9)~~ one who is legally obligated under a judg-
 4 ment, decree, or order to pay child support (as de-
 5 fined in section 212(a)(10)), and whose failure to
 6 pay such child support has resulted in any arrear-
 7 age, unless support payments under the judgment,
 8 decree, or order are satisfied or the alien is in com-
 9 pliance with an approved payment agreement.”.

10 **SEC. 4. AUTHORIZATION TO SERVE LEGAL PROCESS IN**
 11 **CHILD SUPPORT CASES ON CERTAIN ARRIV-**
 12 **ING ALIENS.**

13 Section 235(d) of the Immigration and Nationality
 14 Act (8 U.S.C. 1225(d)) is amended by adding at the end
 15 the following:

16 “~~(5)~~ AUTHORITY TO SERVE PROCESS IN CHILD
 17 SUPPORT CASES.—

18 “~~(A)~~ IN GENERAL.—To the extent con-
 19 sistent with State law, immigration officers are
 20 authorized to serve on any alien who is an ap-
 21 plicant for admission to the United States, legal
 22 process with respect to any action to enforce a
 23 legal obligation of an individual to pay child
 24 support (as defined in section 459(i) of the So-
 25 cial Security Act).

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘legal process’ means any writ, order, summons, or other similar process that is issued by—

“(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States; or

“(ii) an authorized official pursuant to an order of such a court or agency or pursuant to State or local law.”.

**SEC. 5. AUTHORIZATION TO OBTAIN INFORMATION ON
CHILD SUPPORT PAYMENTS BY ALIENS.**

Section 453(h) of the Social Security Act (42 U.S.C. 653(h)) is amended by adding at the end the following:

“(4) PROVISION TO ATTORNEY GENERAL AND SECRETARY OF STATE OF INFORMATION ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.—On request by the Attorney General, Secretary of Homeland Security, or the Secretary of State, the Secretary of Health and Human Services shall provide the requestor with such information as the Secretary of Health and Human Services determines may aid them in determining whether an alien is delinquent in the payment of child support.”.

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on the date that is 90 days after the date of
4 enactment of this Act and shall apply to aliens who apply
5 for benefits under the Immigration and Nationality Act
6 (8 U.S.C. 1101 et seq.) on or after such effective date.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Parental Responsibility*
9 *Obligations Met through Immigration System Enforcement*
10 *Act” or “PROMISE Act”.*

11 **SEC. 2. ALIENS INELIGIBLE TO RECEIVE VISAS AND EX-**
12 **CLUDED FROM ADMISSION FOR NON-**
13 **PAYMENT OF CHILD SUPPORT.**

14 *Section 212(a)(10) of the Immigration and Nation-*
15 *ality Act (8 U.S.C. 1182(a)(10)) is amended by adding at*
16 *the end the following:*

17 “(F) NONPAYMENT OF CHILD SUPPORT.—

18 “(i) IN GENERAL.—*Except as provided*
19 *in clause (ii), an alien who is legally obli-*
20 *gated under a judgment, decree, or order to*
21 *pay child support and whose failure to pay*
22 *such child support has resulted in arrear-*
23 *ages that exceed the amount specified in sec-*
24 *tion 454(31) of the Social Security Act (42*
25 *U.S.C. 654(31)) is inadmissible.*

1 “(ii) *EXCEPTION.*—*An alien described*
2 *in clause (i) may become admissible when—*

3 “(I) *child support payments*
4 *under the judgment, decree, or order*
5 *are satisfied; or*

6 “(II) *the alien is in compliance*
7 *with a payment agreement approved*
8 *by the appropriate State enforcement*
9 *agency or court.*

10 “(iii) *FEDERAL PARENT LOCATOR*
11 *SERVICE.*—*The Federal Parent Locator*
12 *Service, established under section 453 of the*
13 *Social Security Act (42 U.S.C. 653), shall*
14 *be used to determine if an alien is inadmis-*
15 *sible under clause (i).*

16 “(iv) *REQUEST BY FOREIGN COUN-*
17 *TRY.*—*For purposes of clause (i), any re-*
18 *quest for services by a foreign reciprocating*
19 *country or a foreign country with which a*
20 *State has an arrangement described in sec-*
21 *tion 459A(d) of the Social Security Act (42*
22 *U.S.C. 659a(d)) shall be treated as a State*
23 *request.”.*

1 **SEC. 3. AUTHORITY TO PAROLE ALIENS EXCLUDED FROM**
 2 **ADMISSION FOR NONPAYMENT OF CHILD**
 3 **SUPPORT.**

4 *Section 212(d)(5) of the Immigration and Nationality*
 5 *Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end*
 6 *the following:*

7 *“(C)(i) The Secretary of Homeland Security may, in*
 8 *the Secretary’s discretion, parole into the United States,*
 9 *any alien who is inadmissible under subsection*
 10 *(a)(10)(F)(i) if—*

11 *“(I) the Secretary of Homeland Security places*
 12 *such alien into removal proceedings;*

13 *“(II) the alien demonstrates to the satisfaction of*
 14 *the Secretary of Homeland Security that such parole*
 15 *is essential to the compliance and fulfillment of child*
 16 *support obligations;*

17 *“(III) the alien demonstrates that the alien has*
 18 *employment in the United States and is authorized*
 19 *by law for employment in the United States; and*

20 *“(IV) the alien is not inadmissible under any*
 21 *other provision of law.*

22 *“(ii) The Secretary of State may permit an alien de-*
 23 *scribed in clause (i) to present himself or herself at a port*
 24 *of entry for the limited purpose of seeking parole pursuant*
 25 *to clause (i).*

1 “(iii) *The Secretary of Homeland Security and the*
 2 *Secretary of State shall exercise the discretionary authority*
 3 *described in this subparagraph in a manner consistent with*
 4 *the objective of facilitating collection of payment of child*
 5 *support arrearages.*

6 “(iv) *For purposes of this subparagraph, unless waived*
 7 *by the alien, the Attorney General shall not enter a final*
 8 *order of removal within the 180-day period after the Sec-*
 9 *retary of Homeland Security initially charges the alien as*
 10 *removable under subsection (a)(10)(F) and shall not enter*
 11 *such final removal order during the pendency of State court*
 12 *proceedings involving the child support obligations of the*
 13 *alien.”.*

14 **SEC. 4. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON**
 15 **ESTABLISHMENT OF GOOD MORAL CHAR-**
 16 **ACTER.**

17 *Section 101(f) of the Immigration and Nationality Act*
 18 *(8 U.S.C. 1101(f)) is amended—*

19 *(1) in paragraph (8), by striking the period at*
 20 *the end and inserting “; or”; and*

21 *(2) by inserting after paragraph (8) the fol-*
 22 *lowing:*

23 *“(9) one who is legally obligated under a judg-*
 24 *ment, decree, or order to pay child support (as de-*
 25 *fined in section 459(i) of the Social Security Act (42*

1 *U.S.C. 659(i))) and whose failure to pay such child*
 2 *support has resulted in arrearages that exceed the*
 3 *amount specified in section 454(31) of that Act (42*
 4 *U.S.C. 654(31)), unless support payments under the*
 5 *judgment, decree, or order are satisfied or the alien is*
 6 *in compliance with an approved payment agree-*
 7 *ment.”.*

8 **SEC. 5. AUTHORIZATION TO SERVE LEGAL PROCESS IN**
 9 **CHILD SUPPORT CASES ON CERTAIN VISA AP-**
 10 **PLICANTS AND ARRIVING ALIENS.**

11 *Section 235(d) of the Immigration and Nationality*
 12 *Act (8 U.S.C. 1225(d)) is amended by adding at the end*
 13 *the following:*

14 “(5) *AUTHORITY TO SERVE PROCESS IN CHILD*
 15 *SUPPORT CASES.—*

16 “(A) *IN GENERAL.—To the extent consistent*
 17 *with State law, immigration officers are author-*
 18 *ized to serve on any alien who is an applicant*
 19 *for admission to the United States, legal process*
 20 *with respect to—*

21 “(i) *any action to enforce a legal obli-*
 22 *gation of an individual to pay child sup-*
 23 *port (as defined in section 459(i) of the So-*
 24 *cial Security Act (42 U.S.C. 659(i)); or*

25 “(ii) *any action to establish paternity.*

1 “(B) *DEFINITION.*—*For purposes of sub-*
 2 *paragraph (A), the term ‘legal process’ means*
 3 *any writ, order, summons, or other similar proc-*
 4 *ess that is issued by—*

5 “(i) *a court or an administrative agen-*
 6 *cy of competent jurisdiction in any State,*
 7 *territory, or possession of the United States;*
 8 *or*

9 “(ii) *an authorized official pursuant to*
 10 *an order of such a court or agency or pur-*
 11 *suant to State or local law.”.*

12 **SEC. 6. AUTHORIZATION TO OBTAIN INFORMATION ON**
 13 **CHILD SUPPORT PAYMENTS BY ALIENS.**

14 *Section 453(h) of the Social Security Act (42 U.S.C.*
 15 *653(h)) is amended by adding at the end the following:*

16 “(4) *PROVISION OF INFORMATION ON PERSONS*
 17 *DELINQUENT IN CHILD SUPPORT PAYMENTS.—*

18 “(A) *IN GENERAL.*—*Notwithstanding any*
 19 *other provision of law and in accordance with*
 20 *the requirements of subsection (b), on request by*
 21 *the Attorney General, Secretary of Homeland Se-*
 22 *curity, or Secretary of State, the Secretary of*
 23 *Health and Human Services shall provide and*
 24 *transmit to authorized persons through the Fed-*
 25 *eral Parent Locator Service, such information as*

1 *the Secretary of Health and Human Services de-*
2 *termines may aid the authorized person in estab-*
3 *lishing whether an alien is delinquent in the*
4 *payment of child support.*

5 *“(B) PROHIBITION ON DISCLOSURE OF IN-*
6 *FORMATION.—In no case may an authorized per-*
7 *son permit use by, or disclosure to, any person*
8 *(other than a sworn officer or employee of the*
9 *United States Government for legitimate law en-*
10 *forcement purposes) of any information obtained*
11 *under this paragraph through the Federal Par-*
12 *ent Locator Service.*

13 *“(C) PENALTY.—Any person who willfully*
14 *uses, publishes, or permits information to be dis-*
15 *closed in violation of this paragraph shall be*
16 *subject to appropriate disciplinary action and*
17 *subject to a civil monetary penalty of not more*
18 *than \$5,000 for each such violation.*

19 *“(D) AUTHORIZED PERSON DEFINED.—For*
20 *purposes of this paragraph, the term ‘authorized*
21 *person’ means any administrative agency, immi-*
22 *gration officer, or consular officer (as defined in*
23 *section 101(a) of the Immigration and Nation-*
24 *ality Act (8 U.S.C. 1101(a)) having the author-*
25 *ity to investigate or enforce the immigration and*

1 *naturalization laws of the United States with re-*
2 *spect to the legal entry and status of aliens.”.*

3 **SEC. 7. EFFECTIVE DATE.**

4 *This Act and the amendments made by this Act shall*
5 *take effect on the date that is 90 days after the date of enact-*
6 *ment of this Act and shall apply to aliens who apply for*
7 *benefits under the Immigration and Nationality Act (8*
8 *U.S.C. 1101 et seq.) on or after such effective date.*

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